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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/556,157 04/21/00 LEOUTSAKOS

T TL-1

EXAMINER

PM82/0827

GEORGE E KERSEY
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FRAMINGHAM MA 01701

SANTOS, P

ART UNIT

PAPER NUMBER

3628

DATE MAILED:

08/27/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Applicati n No.

09/556,157

Applicant(s)

LEOUTSAKOS, THOMAS

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are considered to be informal because they fail to comply with 37 CFR 1.84(a)(1) which requires black and white drawings using India ink or its equivalent.

Color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) or (b)(2) is granted permitting their use as formal drawings. In the event applicant wishes to use the drawings currently on file as formal drawings, a petition must be filed for acceptance of the photographs or color drawings as formal drawings. Any such petition must be accompanied by the appropriate fee as set forth in 37 CFR 1.17(i), three sets of drawings or photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification must provide proper antecedent basis for the method step of expanding the rest member "in association with a recliner" as recited in dependent claim

12.

Claim Objections

3. Claims 8, 19, 21, and 35 are objected to because of the following informalities:

- 1) In claim 8, line 2: "bellows" should be changed to --expandable member--.
- 2) In claim 19, line 2: "expandable member" should be changed to --bellows--.
- 3) In claim 21, line 1: "persons" should be changed to --a person--.
- 4) In claim 21, line 3: "a" should be changed to --said--.
- 5) In claim 35, line 2: "disabled" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 7, 8, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The scope of the phrase "and related devices" as recited in dependent claim 7 cannot be properly ascertained, thereby rendering claims 7 and 8 indefinite. Furthermore, the method step of expanding said rest member "in association with a recliner" as recited in claim 12 lacks proper antecedent basis in the specification as indicated above in paragraph 2 of this Office action, thereby rendering this claim indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6, 11, 13, 14, 16, 31, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,461,736 to Carpenter et al. As concerns claims 1, 11, and 31, Carpenter et al. '736 shows the claimed limitations of an "apparatus" (10) for supporting a body part or lower limb, comprising: a "rest member" (18) upon which the body part or lower limb is positioned; an "expandable member" (32) associated with the rest member; and "means for expanding" (38) the expandable member with the body part or lower limb supported on the rest member such that the body part or lower limb is elevated; in addition, Carpenter et al. '736 discloses the method step of "transferring the body part or lower limb from the rest member" to an elevated surface (see Figures 1-3; column 1, lines 8-12; column 4, lines 26-32, 46-50, & 57-59; and column 5, lines 22-24). As concerns claim 2, the reference is considered to show the use of an "auxiliary surface" (29) associated therewith in Figures 1-3 and in column 5, lines 42-44. With regards to claims 3, 4, 13, and 14, the examiner respectfully asserts that the apparatus of Carpenter et al. '736 inherently meets these claimed limitations since the device of Carpenter et al. '736 is disclosed as raising the *entire* body of a user to an elevated location (see column 1, lines 8-12 and column 5, lines 22-24). As concerns claims 5, 6, and 16, the reference further discloses a condition wherein the rest member is a "platform" (18) which is configured to the body part and the expandable member (32) is associated therewith (see Figures 2 & 3 and column 4, lines 46-51 & 57-59). With regards to claims 34 and 35, the reference also inherently discloses a condition wherein the lower limb is elevated to substantially the level of the elevated surface and transferred to the elevated surface such that the person can adopt a reclined position in column 1, lines 8-12 and in column 5, lines 22-24.

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7. Claims 1-11, 13-20, 31, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,669,086 to Garman. As concerns claims 1, 11, and 31, Garman '086 shows the claimed limitations of an "apparatus" (10) for supporting a body part or lower limb, comprising: a "rest member" (15) for the body part or lower limb; an "expandable member" (20, 21, & 22) associated with the rest member; and "means for expanding" (50) the expandable member with the body part or lower limb on the rest member; in addition, Garman '086 discloses the method step of "transferring the body part or lower limb from the rest member" to an elevated surface (see Figures 1-5; column 1, lines 34-36; column 5, lines 40-49 & 61-64; and column 6, lines 28-30 & 42-54). As concerns claim 2, the reference is considered to show the use of an "auxiliary surface" (13) associated therewith in Figure 1 and in column 5, lines 54-56 & 61-64. With regards to claims 3, 4, 13, and 14, the examiner respectfully asserts that the apparatus of Garman '086 inherently meets these claimed limitations since the device of Garman '086 raises the *entire* body of a user as disclosed in column 1, lines 34-35. As concerns claims 5, 6, and 16, the reference further discloses a condition wherein the rest member is a "platform" (15) which is configured to the body part and the expandable member (20-22) is associated therewith (see Figures 1-4 and column 5, lines 40-48). With regards to claims 7, 8, and 17, the reference is also considered to show a condition wherein the expandable member (20-22) is a "bellows" adhered to the platform (15) in Figures 1-4 and in column 5, lines 40-48. As concerns claims 9, 10, 15, and 18-20, the reference is considered to show conditions wherein the means for expanding (50) includes "means for inflating" the expandable member and further including a "safety guard" (16) therefor, wherein the means for inflating comprises "a valve and a compressor" (as disclosed in column 6, lines 31-35) attached to the valve (see also Figures 2,

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3A, & 5; column 5, lines 47-49; column 6, lines 11-13, 28-30, & 36-64; and column 7, lines 1-15). With regards to claims 34 and 35, the reference also inherently discloses a condition wherein the lower limb is elevated to substantially the level of the elevated surface and transferred to the elevated surface such that the person can adopt a reclined position in column 1, lines 34-36.

8. Claims 1-35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,651,149 to Garman. As concerns claims 1, 11, 21, and 31, Garman '149 shows the claimed limitations of an "apparatus" (30, 30A, 63) for assisting a person into adopting a reclined position from a sitting position and supporting a body part or lower limb of the person, comprising: a "rest member" (31, 63) for elevating a body part or lower limb to a level permitting transfer of the person to a surface with the body part or lower limb in a reclined position; an "expandable member" (39) associated with the rest member; and "means for expanding" (41) the expandable member with the body part or lower limb on the rest member; in addition, Garman '086 discloses the method step of "transferring the body part or lower limb from the rest member" to the elevated surface upon which a person is to recline (see Figures 1, 2, 5-9, & 9A and column 5, lines 42-50). As concerns claim 2, the reference is considered to show the use of an "auxiliary surface" (11, 11A) associated therewith in Figures 1, 2, 8, 9, 9A, & 10; column 4, lines 41-42; and in column 7, lines 18-19. With regards to claims 3, 4, 13, and 14, the examiner respectfully asserts that the apparatus of Garman '149 inherently meets these claimed limitations since the device of Garman '149 raises the *entire* body of a user as disclosed in Figures 12 & 13 and in column 7, lines 38-40. As concerns claims 5, 6, and 16, the reference

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further discloses a condition wherein the rest member is a “platform” (31) which is configured to the body part and the expandable member (39) is associated therewith (see Figures 2, 5, 7-9, 9A, & 10 and column 5, lines 42-47). With regards to claims 7, 8, and 17, the reference is also considered to show a condition wherein the expandable member (39) is a “bellows” adhered to the platform (31) in Figures 2, 5, 7-9, 9A, & 10 and in column 5, lines 42-47. As concerns claims 9, 10, 15, and 18-20, the reference is considered to show conditions wherein the means for expanding (41) includes “means for inflating” the expandable member (39) and further including a “safety guard” (42) therefor, wherein the means for inflating comprises a “valve” (V₁, V₂, V₃, or V_D) and a “compressor” (79) attached to the valve (see also Figures 1, 2, 5-9, 9A, 10-13, 16, 17; column 5, lines 49-50 & 52-54; and column 8, lines 30-40).

As concerns claim 12, the reference is considered to show the step of expanding the rest member “in association with a recliner” in column 4, lines 61-63. With regards to claims 22 and 23, the reference also discloses a condition wherein the surface comprises a “bed” (24) including a “mattress” (25) (see Figures 1-3 and 8, 9, 9A, & 10; column 4, line 58; and column 5, line 36). As concerns claim 24, the reference also discloses a condition wherein the “means for transferring” (11) is positioned on a “platform” (31) (see Figures 1, 8, 9, & 9A; column 4, lines 41-42; and column 5, lines 1-5). With regards to claims 25-27, the reference also discloses the use of a “support” (60) for the lower limb, “means for elevating” (41) the support with respect to the platform (31), wherein the means for elevating elevates the support and permits the transfer of the lower limb to the surface (24) (see Figures 9 & 9A and column 7, lines 5-14). As concerns claims 28-30, the reference also discloses conditions wherein the support (60) is depressible to the vicinity of the platform (31) after the lower limb has been transferred, and wherein the

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elevating means (41) is "switch-actuatable" (1-8, 84) and is "selected from the class of manually and automatically powered devices" (see Figures 9, 16, & 17; column 7, lines 8-11; and column 8, lines 26-43 & 62-65).

As concerns claims 32 and 33, the reference is considered to show conditions wherein the "means for elevating" (31, 39, 41, 60) the lower limb adjoins the "elevated surface" (24) and wherein the person is wheeled to the means for elevating the lower limb and the foot of the lower limb is positioned thereon in Figures 1, 2, 8, 9, 9A, 10 & 11 and in column 6, lines 26-29 & 54-55. With regards to claims 34 and 35, the reference also discloses a condition wherein the lower limb is elevated to substantially the level of the elevated surface and transferred to the elevated surface such that the person can adopt a reclined position in Figures 9 & 9A; column 6, lines 26-42 and in column 7, lines 5-14.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- 1) U.S. Patent No. 6,199,827 to Rimington et al.
- 2) U.S. Patent No. 5,896,602 to Marblestone
- 3) U.S. Patent No. 5,584,082 to Crawford et al.
- 4) U.S. Patent No. 5,438,722 to Jayamanne
- 5) U.S. Patent No. 5,408,710 to Garman et al.
- 6) U.S. Patent No. 4,997,200 to Earls
- 7) U.S. Patent No. 4,993,736 to Garman et al.

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- 8) U.S. Patent No. 4,837,873 to DiMatteo et al.
- 9) U.S. Patent No. 4,786,032 to Garman et al.
- 10) U.S. Patent No. 4,700,415 to DiMatteo et al.
- 11) U.S. Patent No. 4,688,760 to Garman et al.
- 12) U.S. Patent No. 4,602,773 to Craven, Jr.
- 13) U.S. Patent No. 3,967,328 to Cox
- 14) U.S. Patent No. 3,786,523 to Sele
- 15) U.S. Patent No. 2,609,862 to Pratt
- 16) U.S. Patent No. 2,587,068 to Sanders
- 17) WIPO Patent No. 88007848 to Hoffmann et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on M-Th and second Fridays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-3687 for regular communications and (703) 308-3687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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A handwritten signature in cursive script, reading "Robert G. Santos".

Robert G. Santos

Examiner

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R.S.

August 18, 2001